

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

JAMES W. GREEN, an individual, and
AMERICAN CIVIL LIBERTIES UNION OF
OKLAHOMA, a non-profit corporation,

Plaintiffs,

v.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF HASKELL, and
SAM COLE, Haskell County Commissioner,
Chairman, in his official capacity,

Defendants.

Case No. 05-CV-406-RAW

Order

This matter comes before the Court on Defendants' motion to strike Plaintiffs' expert witnesses [Docket No. 48]. Defendants argue that Plaintiffs' experts should be excluded because of Plaintiffs' failure to timely disclose those experts as required by Fed. R. Civ. P. 26(a)(2) and 37(c)(1). The Court agrees with Defendants that allowing Plaintiffs' experts, disclosed well past the deadline, to testify would significantly prejudice Defendants.* Furthermore, the Court finds that the testimony proffered by Plaintiffs' experts would not be helpful and is not properly the subject of expert testimony. While these experts' reports include some scholarship, neither represents an objective balance of views, but rather the zealous views of an advocate. Accordingly, the motion [Docket No. 48] is hereby GRANTED.

*The Court also notes that at the Status and Scheduling Conference in January, Plaintiffs' counsel whole-heartedly agreed with the Court that this litigation should be moved along in a timely fashion without any delays.

IT IS SO ORDERED this 12th day of April, 2006.

A handwritten signature in cursive script, reading "Ronald A. White", written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma